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REMARKS

Claims 6-10 and 12-19 are pending in this application. Claims 1-5 and 20-24 have been indicated as withdrawn pursuant to a restriction requirement. Claim 25 is newly added. Claim 11 has been cancelled. Claims 1, 3-6, 12, 14, 20 and 24 have been amended to further define the invention. The amendments find support in the application and originally filed claims. For example, support for "inner layer formed of watertight material" is found at paragraph [0036]. Support for "plurality of vertical walls and bottom integrally formed, said vertical walls and bottom forming an open top which is covered by a lid" is found at [0021]. Support for outer shell of new claim 25 can be found at paragraph [0061]. Accordingly, the present amendments and new claim raise no issue of new matter.

Claims 1, 3-5, 20 and 24, although withdrawn, have been amended to depend from the elected and examined group. Applicant confirms election of claims 6-19 for examination without traverse. The Applicant further respectfully reminds the Examiner to rejoin such withdrawn claims (i.e. claims 1-5 and 20-24) once allowable subject matter has been determined. *See MPEP § 821.04.*

The presently claimed invention has the remarkable feature of providing secure transport of hazardous material. This is achieved by providing a collapsible soft sided outer shell with integrally formed sides and bottom and an inner layer formed of watertight material. Not only do the references cited by the Examiner not meet these requirements, the references do not even contemplate the combination of these features. Therefore, the instant claims are novel and non-obvious over the references cited by the Examiner taken alone or in combination.

Rejection under 35 U.S.C. § 102 over Zedgies

The rejection of claims 6, 11, 12 and 14 under 35 U.S.C. § 102(b) as allegedly being anticipated by Zedgies (U.S. Pat. No. 6,336,342) is respectfully traversed.

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In order to anticipate a claim, a single prior art reference must provide each and every element set forth in the claim. *In re Bond*, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990); *see also*, MPEP §2131. The Examiner bears the initial burden of establishing a *prima facie* case of anticipation. Only once a *prima facie* case has been established does the burden shift to the applicant to rebut the *prima facie* case. *See, e.g., In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Claim 6 (and dependent claims 11, 12 and 14), recites an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material, features not disclosed in Zeddies. As illustrated by Zeddies in Figure 5, gaps are present at each wall juncture through which liquid can easily leak. This is evident because the side walls are held together by nothing more than a tab. Zeddies provides no other configurations or description of the container to support an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material. Accordingly, Zeddies fails to disclose each and every claim element. Reconsideration and withdrawal of the rejections are respectfully requested.

Rejection under 35 U.S.C. § 102 over Tattam

The rejection of claims 6-8 and 17 under 35 U.S.C. § 102(e) as allegedly being anticipated by Tattam (U.S. Pat. No. 6,609,628) is respectfully traversed. The instant claims require *inter alia* an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material. Tattam discloses a collapsible container, however, the bottom is not integrally formed with the side walls. As indicated in col. 2 lines 31-32 and Figure 3B, the bottom is a separate “plug” or “flap.” In all cases, the “plug” or “flap” is not integrally formed with the sides. Tattam does not provide any description to support an integrally formed bottom with vertical side walls.

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Moreover, the instant claims require a outer shell with a watertight inner layer, a feature also not disclosed in Tattam. The Tattam container discloses plugs to secure contents inside the container and a pressure envelope to retain the plugs in their inserted position (see col. 3, lines 11-12). However, Tattam does not describe the nature of the any seal that might result from the "pressure envelope" and plugs or flaps and the examiner has not argued that any such seal would be inherent in the design. As such, there is no evidence to support that Tattam describes an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material.

In addition, the instant claims require that the soft-sided outer shell (which includes the integral bottom) is collapsible. However, the Tattam container is not collapsible when the bottom is inserted due to the vertical rigidity of the container walls (see Figure 3A as compared to Figure 3B and col. 4 lines 60-61). The Tattam container can be collapsed only by removal of the bottom and top. Tattam does not disclose a soft-sided collapsible container with vertical walls and bottom integrally formed and having an inner layer formed of watertight material. For at least this reason, Tattam fails to disclose each and every claim element. Reconsideration and withdrawal of the rejections are respectfully requested.

Rejection under 35 U.S.C. § 103 over Mogil in view of Zeddies

The rejection of claims 6, 11-13 and 15 under 35 U.S.C. § 103(a) as being obvious over Mogil (U.S. Pat. No. 6,582,124) in view of Zeddies is respectfully traversed.

To establish a *prima facie* case of obviousness, three criteria must be met; (1) there must be some motivation or suggestion, either in the cited publications or in knowledge available to one skilled in the art, to modify or combine the cited publications; (2) there must be a reasonable expectation of success in combining the publications to achieve the claimed invention; and (3) the publications must teach or suggest all of the claim limitations. *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2142.

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As discussed, the instant claims are directed to a container system having *inter alia* an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material which is at least partially collapsible, wherein the outer shell is supported by a collapsible inner frame.

Mogil describes a soft-sided container having a removable impermeable liner. Mogil does not indicate that the outer shell has vertical walls and bottom integrally formed and having an inner layer formed of watertight material. In fact, one of skill in the art would believe otherwise because Mogil achieves waterproofing by including a thin collapsible inner liner which is an integral structure with no seams or welds (see col. 7, lines 25-29). Thus, Mogil fails to describe a container with vertical walls and bottom integrally formed and having an inner layer formed of watertight material.

Zeddies fails to cure this defect in the teachings of Mogil because, as discussed above, the soft-sided container of Zeddies also does not have a soft-sided outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material. Thus, the rejection fails on this basis alone as the combination fails to teach an essential claim element.

With respect to the requirement for a rigid inner frame, the Examiner acknowledges that this element is lacking in Mogil but is allegedly present in Zeddies. However, Applicant notes that the use of a rigid inner frame from Zeddies in the container of Mogil will defeat the stated goal of Mogil to have a fully collapsible container (col. 7, lines 34-36). Thus, one of skill would not have been motivated to combine the rigid inner frame of Zeddies with the container and liner of Mogil.

Thus, the rejection of claims 6, 11-13 and 15 as being obvious over Mogil in view of Zeddies fails to state a *prima facie* rejection for obviousness. Accordingly, reconsideration and withdrawal of the rejections is respectfully requested.

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Rejection under 35 U.S.C. § 103 over Mogil and Zeddies in view of Kalai

The rejection of claim 10 under 35 U.S.C. § 103(a) as being obvious over Mogil and Zeddies in view of Kalai (U.S. Pat. Pub. No. 20030106895) is respectfully traversed.

The teachings of Mogil and Zeddies and the deficiencies of such combination have been discussed above. These include *inter alia* the lack of an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material and compatibility of the inner frame of Zeddies with the the container system of Mogil. Furthermore, as acknowledged by the Examiner, Mogil and Zeddies do not teach a container with air vent holes (see page 5, line 10 of the Office Action).

Kalai describes a container with a partially rigid outer shell formed in part by metal framing (see paragraph [0005]). As such, Kalia does not alone or in combination with Mogil or Zeddies teach or suggest an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material.

Thus, the rejection of claim 10 as being obvious over Mogil and Zeddies in view of Kalai fails to state a *prima facie* rejection for obviousness. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. § 103 over Mogil and Zeddies in view of Boyd-Moss

The rejection of claim 9 under 35 U.S.C. § 103(a) as being obvious over Mogil and Zeddies in view of Boyd-Moss (U.S. Pat. No. 6,631,801) is respectfully traversed.

The teachings of Mogil and Zeddies and the deficiencies of such combination have been discussed above. These include *inter alia* the lack of a outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material and compatibility of the inner frame of Zeddies with the the container system of Mogil. Furthermore, as

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acknowledged by the Examiner, Mogil and Zeddies do not teach an outer shell that satisfies IATA 602 requirements (see page 5, lines 19-20 of the Office Action).

Boyd-Moss describes a rigid transport package comprising a rigid tube (e.g. made from cardboard) optionally encased in a protective envelope. Neither the container or envelope of Boyd-Moss is indicated to be collapsible. Boyd-Moss discloses that the tube may be made water proof, however, such tube is rigid, not soft sided and collapsible (see col. 7 line 61 to col. 8 line 3). As such, Boyd-Moss taken alone or in combination with Mogil and Zeddies fails teach or suggest an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material as required by claim 9.

Thus, the rejection of claim 9 as being obvious over Mogil and Zeddies in view of Boyd-Moss fails to state a *prima facie* rejection for obviousness. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. § 103 over Mogil and Zeddies in view of Reichert

The rejection of claim 16 under 35 U.S.C. § 103(a) as being obvious over Mogil and Zeddies in view of Reichert (U.S. Pat. No. 4,865,899) is respectfully traversed.

The teachings of Mogil and Zeddies and the deficiencies of such combination have been discussed above. These include *inter alia* the lack of a outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material and compatibility of the inner frame of Zeddies with the container system of Mogil. Furthermore, as acknowledged by the Examiner, Mogil and Zeddies do not teach the outer fabric material to include polyester (see page 6, lines 6-7 of the Office Action).

Reichert describes a secondary liner comprising a polyester elastomeric layer for hard shell storage tanks or truck bed lining for containment of hazardous materials. The elastomeric layer of Reichert fails to cure the noted deficiencies of the primary and secondary references,

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namely, an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material and compatibility of the inner frame of Zeddies with the container system of Mogil. Thus, the rejection fails on this basis alone as the combination fails to teach an essential claim element.

Furthermore, Reichart is non-analogous art and thus one of ordinary skill in the art would not be motivated to combine this art with either Mogil or Zeddies. The container of Mogil and Zeddies is for shipping small items, while the Reichart liner is for very large scale hazardous waste containment (see col. 1, lines 5-14). There would be no motivation to incorporate the truck bed liner material or in-ground liner disclosed in Reichart for use with a small shipping container such as disclosed by Mogil and Zeddies.

Thus, the rejection of claim 16 as being obvious over Mogil and Zeddies in view of Reichert fails to state a *prima facie* obviousness rejection. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. § 103 over Mogil and Zeddies in view of Travis

The rejection of claim 17-19 under 35 U.S.C. § 103(a) as being obvious over Mogil and Zeddies in view of Travis (U.S. Pat. No. 4,585,159) is respectfully traversed.

The teachings of Mogil and Zeddies and the deficiencies of such combination have been discussed above. These include *inter alia* the lack of an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material and compatibility of the inner frame of Zeddies with the container system of Mogil. Furthermore, as acknowledged by the Examiner, Mogil and Zeddies do not teach an inner frame where the side walls link the ends of the longitudinal walls and allow a reduction in distance between the longitudinal walls when collapsed.

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The Travis patent discloses a collapsible container which has bottom holes for assembly of the container (see Figure 5). No design for an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material of the container is disclosed in Travis. Accordingly, the Travis container fails to cure the noted deficiencies of the primary and secondary references, namely, an outer shell with vertical walls and bottom integrally formed and having an inner layer formed of watertight material and compatibility of the inner frame of Zeddies with the container system of Mogil. Thus, the rejection fails on this basis alone as the combination fails to teach an essential claim element.

Furthermore, the collapsible container of Travis is not a frame for use inside a soft sided outer shell as the rejection seems to indicate (see p. 6, lines 19-21 of the Office Action). The collapsible container of Travis is the outermost portion of the container (see e.g. col. 1, lines 6-11). Thus, there is no motivation to use the container of Travis as an inner rigid frame for a soft-sided outer shell.

Thus, the rejection of claim 17-19 as being obvious over Mogil and Zeddies in view of Travis fails to state a *prima facie* obviousness rejection. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that the pending claims are in condition for allowance. An early notice to that effect is earnestly solicited. Should any matters remain outstanding, the Examiner is encouraged to contact the undersigned at the telephone number listed below so that they may be resolved without the need for a written action.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check

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being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date 02/17/2006

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